



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA ELECTRONIC AND FIRST CLASS MAIL**

**APR 20 2018**

Michael Bayes, Esq.  
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RE: MUR 7365 (Let America Work)  
(formerly Pre-MUR 601/RR 17L-15)

Dear Mr. Bayes:

On December 2, 2017, your clients, Let America Work and Ben Ottenhoff in his official capacity as treasurer ("Let America Work"), filed a *sua sponte* submission notifying the Federal Election Commission ("Commission") that Let America Work may have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("Act"). In addition, in the normal course of carrying out its supervisory responsibilities, the Commission forwarded to Let America Work a copy of RAD Referral ("RR") 17L-15 on June 12, 2017, addressing the same activity referenced in your clients' *sua sponte* submission. See 52 U.S.C. § 30109(a)(2).

Upon review of the available information, the Commission, on April 10, 2018, opened a matter under review and found reason to believe that Let America Work violated 52 U.S.C. § 30104(g)(1). The Factual and Legal Analysis, which provides the basis for the Commission's findings, is enclosed for your information.

Please note that your clients have a legal obligation to preserve all documents, records, and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that Let America Work violated the law.

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If Let America Work is interested in engaging in pre-probable cause conciliation, please contact Roy Q. Lockett, the attorney assigned to this matter, at (202) 694-1650 or [rlockett@fec.gov](mailto:rlockett@fec.gov), within seven days of receiving this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, it may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if Let America Work is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at <http://www.fec.gov/respondent.guide.pdf>.

In the meantime, this matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that your clients wish the matter to be made public. Please be advised that although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

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<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).



1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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7 **RESPONDENTS: Let America Work and**  
8 **Benjamin Ottenhoff in his**  
9 **official capacity as treasurer**

**MUR 7365**

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11 **I. INTRODUCTION**

12 This matter was generated by a *sua sponte* submission (“Submission”) filed with  
13 the Commission by Let America Work and Benjamin Ottenhoff in his official capacity as  
14 treasurer and pursuant to information ascertained by the Federal Election Commission  
15 (the “Commission”) in the normal course of carrying out its supervisory responsibilities.<sup>1</sup>

16 The Submission acknowledges that the Committee failed to timely disclose a  
17 \$324,821 independent expenditure.<sup>2</sup> The Commission’s Reports Analysis Division  
18 (“RAD”) later referred the Committee to the Office of General Counsel (“OGC”) for the  
19 same activity. For the reasons set out below, the Commission has determined to find  
20 reason to believe that the Committee violated 52 U.S.C. § 30104(g)(1).

21 **II. FACTUAL SUMMARY**

22 The Committee is an independent-expenditure-only political committee that  
23 registered with the Commission on August 4, 2015.<sup>3</sup> On December 2, 2016, the  
24 Committee filed its Submission noting that it made one independent expenditure in the

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<sup>1</sup> See 52 U.S.C. § 30109(a)(2).

<sup>2</sup> See Submission (Dec. 2, 2016). See also Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

<sup>3</sup> See Statement of Organization, filed August 4, 2015, available at <http://docquery.fec.gov/pdf/789/201508049000776789/201508049000776789.pdf>.

1 amount of \$324,821 to Stick & Rudder Strategies, Inc. for media services in opposition  
2 of Russell Feingold.<sup>4</sup> Although the Committee disseminated this independent  
3 expenditure on October 31, 2016, it concedes that it failed to disclose the expenditure on  
4 a 24-Hour Report.<sup>5</sup> The Committee further states that it discovered the omission on  
5 November 29, 2016, while it was preparing to file its 2016 Post-General Report.<sup>6</sup> On  
6 November 30, 2016, the Committee filed a 24-Hour Report including this independent  
7 expenditure.<sup>7</sup> The Committee also disclosed the independent expenditure on its 30-Day  
8 Post-General Report filed on December 8, 2016.<sup>8</sup>

9 On March 16, 2017, RAD sent a Request for Additional Information (“RFAI”) to  
10 the Committee referencing the same independent expenditure, noting that the Committee  
11 may have failed to timely file a 24-Hour Report.<sup>9</sup> On June 7, 2017, RAD referred the  
12 Committee to OGC for failing to timely file the independent expenditure report.<sup>10</sup>

13 **III, ANALYSIS**

14 The Federal Election Campaign Act of 1971, as amended, requires committee  
15 treasurers to file reports of disbursements in accordance with the provisions of 52 U.S.C.

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<sup>4</sup> Submission and Attachment.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See Committee 24/48 Report of Independent Expenditures (Nov. 30, 2016), available at <http://docquery.fec.gov/pdf/212/201611309037588212/201611309037588212.pdf>.

<sup>8</sup> See Committee 2016 30 Day Post-General Report (Dec. 8, 2016) at 17, available at <http://docquery.fec.gov/pdf/992/201612089040050992/201612089040050992.pdf>.

<sup>9</sup> See RR 17L-15 and Attachments.

<sup>10</sup> *Id.* The Committee did not respond to the Referral.

